

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

CMFG Life Insurance Company,

Case No.

Plaintiff,

COMPLAINT

V.

JURY DEMAND

Wendi Ristich,

Defendant.

COMPLAINT

15 Plaintiff CMFG Life Insurance Company (“CMFG”), files and asserts its Complaint
16 against Defendant Wendi Ristich (“Ristich”), and in support thereof alleges as follows:

PARTIES

18 1. CMFG is a life insurance corporation organized and existing under the laws of
19 Iowa, with its principal place of business in the Madison, Wisconsin. CMFG is a citizen of the
20 States of Iowa and Wisconsin.

21 2. Upon information and belief, Wendi Ristich is an adult individual who resides at
22 414 NE Ravenna Blvd., #1027, Seattle, Washington 98115, and is a citizen of the State of
23 Washington.

JURISDICTION AND VENUE

3. This Court has subject-matter jurisdiction under 28 U.S.C. § 1332 because there is complete diversity between CMFG, a citizen of Iowa and Wisconsin, and Ristich, a citizen of Washington, and because the amount in controversy exceeds \$75,000.

4. Venue is proper in this judicial district under 28 U.S.C. § 1391(a) because, upon information and belief, Ristich resides in this judicial district.

FACTUAL BACKGROUND

The Application

5. On or around August 24, 2018, CMFG received an online application for a TruStage Individual Life Insurance policy (the “Application”) on the life of Ricky Adams (“Mr. Adams”). A true and correct copy of the policy at issue, which includes a copy of the Application, with appropriate redactions, is attached hereto as Exhibit A.

6. The Application sought a term life insurance policy with a stated death proceeds of \$300,000. *See* Ex. A at 10.

7. The Application identified "Joseph Adams," who was described as Mr. Adams' "child," as the sole beneficiary of the prospective policy. *Id.*

8. In the Application, CMFG asked the proposed insured to provide his address. The Application contained a representation that Mr. Adams resided at “868 oasis [sic] Palm Circle, Ocoee[,] FL 34761.” *Id.*

9. In the Application, CMFG asked the proposed insured to provide his Social Security Number. The Application contained a representation that Mr. Adams's Social Security Number was "XXX-XX-XXXX." *Id.*

10. In the Application, CMFG asked the proposed insured to provide his date of birth. The Application contained a representation that Mr. Adams's date of birth was in 1963. *Id.*

1 11. In the Application, CMFG asked the proposed insured to provide his email
 2 address. The Application contained a representation that Mr. Adams's email address was
 3 "reebok9875@gmail.com." *Id.*

4 12. In the Application, CMFG asked the proposed insured to execute an "Agreement"
 5 that his representations were "true to the best of [his] knowledge and belief" and to acknowledge
 6 that "[a]ny person who knowingly and with intent to injure, defraud, or deceive any insurer files
 7 a statement of claim or an application containing any false, incomplete, or misleading
 8 information is guilty of a felony of the third degree." *Id.* at 11.

9 13. The Application was purportedly executed electronically by Ricky Adams on
 10 August 24, 2018. *Id.*

11 **The Policy**

12 14. On or about August 24, 2018, CMFG issued Policy No. LC0320364 (the
 13 "Policy"), insuring Mr. Adams's life. *See Ex. A.*

14 15. Based upon the representation that Mr. Adams lived in Florida, the Policy was
 15 issued on Florida forms under the law of Florida. *Id.* It is governed by the law of Florida.

16 16. An insurance policy is a legal contract between the insurer and the policy's
 17 owner. *See Ex. A* § 1.01 ("The Owner is also referred to as 'you', 'your' or 'yours'."), § 8.01
 18 ("This policy, any attached rider(s), endorsement(s), and/or amendments, and any application
 19 attached to the policy, are the entire contract between you and us.").

20 17. The "Owner" of the Policy is identified as Ricky Adams. *Id.* at 4.

21 18. The Policy provides the Owner the right to change the beneficiary. *See id.* § 6.02.

22 19. On or about September 10, 2018, CMFG received a "Change of Beneficiary
 23 Request Form," which purported to contain the signature of Ricky Adams. A true and correct
 24 copy of the Change of Beneficiary Request Form, with appropriate redactions, is attached hereto
 25 as Exhibit B.

1 20. The Change of Beneficiary Request Form named Ristich, who was represented to
 2 be Adams's wife, as the primary beneficiary under the Policy. It named Halia Yonteff, who was
 3 represented to be Adams's daughter, as contingent beneficiary. *See Exhibit B.*

4 **Ristich's Claim for Policy Proceeds**

5 21. On or about March 31, 2021, CMFG received a document entitled "Claimant's
 6 Statement for Death Benefit," seeking payment of the Policy's death proceeds. A true and
 7 correct copy of this form, with appropriate redactions, is attached hereto as Exhibit C.

8 22. This claim form did not list Mr. Adams's date of death. In the section for "date of
 9 death," Ristich listed Mr. Adams's date of birth.

10 23. Ristich also provided a Certificate of Death, which noted that Ricky Adams died
 11 on March 16, 2021.

12 24. Although the last four digits were the same, the social security number listed on
 13 the Certificate of Death was inconsistent with the social security number listed on the
 14 application.

15 25. CMFG investigated the discrepancy and found a number of additional
 16 discrepancies in the information provided in the Application.

17 26. For example, upon information and belief, not only did the social security number
 18 found in the Application not belong to Mr. Adams, Mr. Adams never resided at the address
 19 listed in the Application.

20 27. CMFG also discovered that no fewer than twelve online applications had been
 21 submitted on the life of Ricky Adams, all within a month of one another. These applications
 22 listed different dates of birth, different addresses, and different social security numbers. Several
 23 of these applications were declined for health reasons and others were withdrawn.

FIRST CAUSE OF ACTION

DECLARATORY JUDGMENT – NO VALID POLICY EVER EXISTED

28. CMFG hereby incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth herein at length.

29. The Federal Declaratory Judgment Act, 28 U.S.C. § 2201(a), permits “any court of the United States, upon the filing of an appropriate pleading, [to] declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.”

30. As set forth above, the Policy purports to be a contract between CMFG and Ricky Adams, as its Owner.

31. Upon information and belief, Ricky Adams never applied for the Policy, and never authorized anyone to apply for the Policy on his behalf, and never consented to the issuance of the Policy.

32. Upon information and belief, an impostor, posing as Ricky Adams, applied for and obtained the Policy.

33. That impostor had no authority or capacity to contract with CMFG on behalf of Ricky Adams, nor did CMFG intend to contract with anyone *other* than Ricky Adams.

34. Upon information and belief, there was thus no “meeting of the minds” as between CMFG and Ricky Adams so as to create a valid and binding contract—the Policy.

35. Ristich, on the other hand, contends that she is entitled to payment of the death proceeds under the Policy.

36. As a result, there is a current, existing controversy between CMFG and Ristich regarding whether a valid Policy exists and whether any benefits are due.

37. CMFG is entitled to a judicial declaration that the Policy was never validly issued, and that by tendering back to Ristich the premiums paid on the Policy it has discharged any obligations it may have to Ristich.

SECOND CAUSE OF ACTION

DECLARATORY JUDGMENT – FLA. STAT. § 627.404(5)

38. CMFG hereby incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth herein at length.

39. The Federal Declaratory Judgment Act, 28 U.S.C. § 2201(a), permits “any court of the United states, upon the filing of an appropriate pleading, [to] declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.”

40. Fla. Stat. § 627.404(5) provides that a “contract of insurance upon a person . . . may not be effectuated unless, on or before the time of entering into such contract, the person insured, having the legal capacity to contract, applies for or consents in writing to the contracts and its terms[.]”

41. Upon information and belief, Mr. Adams never applied for or consented in writing to the issuance of the Policy or its terms.

42. As a result, the Policy is void *ab initio*.

43. Ristich, on the other hand, contends that she is entitled to payment of the death proceeds under the Policy.

44. As a result, there is a current, existing controversy between CMFG and Ristich regarding whether a valid Policy exists and whether any benefits are due.

45. CMFG is entitled to a judicial declaration that the Policy is void *ab initio*, and that by tendering back to Ristich the premiums paid on the Policy it has discharged any obligations it may have to Ristich.

WHEREFORE, CMFG respectfully requests the entry of an Order by this Court as follows:

A. Declaring that the Policy was never validly issued or, in the alternative, is void *ab initio*;

- B. Declaring that by tendering to Ristich the premiums paid on the Policy, CMFG has fully discharged any obligations it may have had to Ristich;
 - C. Awarding CMFG its costs associated with bringing this lawsuit, as determined by the Court; and
 - D. Awarding CMFG any further relief this Court deems appropriate.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury as to all claims in Complaint so triable.

Dated: October 12, 2021

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